

A STATEMENT BY
THE HONORABLE GENE TAYLOR
BEFORE THE SUBCOMMITTEE ON COMPENSATION AND EMPLOYEE BENEFITS
JUNE 27, 1985

I WANT TO TAKE THIS OPPORTUNITY TO EXPRESS MY APPRECIATION TO MY COLLEAGUE FOR HOLDING THESE HEARINGS, BECAUSE AS SHE KNOWS, I HAVE HAD A LONG TIME INTEREST IN THE SUBJECT OF EARLY RETIREMENT FOR THOSE AIR TRAFFIC EMPLOYEES OR CONTROLLERS WHO WORK IN FLIGHT SERVICE STATIONS.

I AM PLEASED TO APPEAR BEFORE YOU TODAY AS WE BEGIN THESE HEARINGS AND I WOULD LIKE TO ADDRESS MYSELF TO THE SUBJECT I HAVE ALREADY MENTIONED. AS YOU KNOW, I HAVE INTRODUCED H.R. 989, WHICH WOULD PROVIDE THE EARLY RETIREMENT BENEFITS ENJOYED BY TOWER AND CENTER CONTROLLERS TO STATION CONTROLLERS. I HAVE INTRODUCED SIMILAR MEASURES IN PAST CONGRESSES BECAUSE I CONTINUE TO BELIEVE THAT THE RETIREMENT TREATMENT RECEIVED BY STATION CONTROLLERS IS UNFAIR, IN LIGHT OF THE EARLY RETIREMENT BENEFITS RECEIVED BY THEIR COLLEAGUES IN TOWERS AND CENTERS. HOW WE CAN CONTINUE TO TREAT ONE SEGMENT OF A PERSONNEL COMMUNITY WITH CERTAIN BENEFITS AND DENY THOSE BENEFITS TO OTHERS IN THE SAME COMMUNITY WHO DO SIMILAR WORK IS INDEED A MYSTERY.

MY INVOLVEMENT IN THIS ISSUE BEGAN IN THE 94th CONGRESS WHEN I WAS PRIVILEGED TO SERVE AS THE RANKING MINORITY ON OUR FORMER SUBCOMMITTEE ON RETIREMENT AND EMPLOYEE BENEFITS AND HAS CONTINUED UNTIL TODAY. DURING SOME OF THESE YEARS, I ALSO SERVED ON PUBLIC WORKS SUBCOMMITTEE ON AVIATION AND I AM VERY FAMILIAR WITH OUR NATION'S AIR TRAFFIC CONTROL SYSTEM, PARTICULARLY

THE FINE ROLE OF THE SPECIALISTS WHO WORK IN OUR FLIGHT SERVICE STATIONS AND I CAN ATTEST TO THE IMPORTANCE OF THEIR WORK TO A LARGE SEGMENT OF THE AVIATION COMMUNITY.

THERE CONTINUES TO BE A GREAT DEAL OF MISUNDERSTANDING CONCERNING THE ROLE OF FLIGHT SERVICE STATIONS WITHIN THE AIR TRAFFIC CONTROL SYSTEM. SOME OF THIS CAN, I BELIEVE, BE ATTRIBUTED TO THE TITLE OF THE ORIGINAL EARLY RETIREMENT LEGISLATION ENACTED IN 1972 AS THE "AIR TRAFFIC CONTROLLERS CAREER PROGRAM". THERE IS ONLY ONE AIR TRAFFIC CONTROL SYSTEM MADE UP OF THREE CATEGORIES OF SPECIALISTS, NOW KNOWN AS CONTROLLERS, AND THEY ARE EMPLOYED IN TOWERS, CENTERS AND STATIONS.

X IN MY OPINION, THE CONGRESS MADE A MISTAKE IN 1972 BY NOT INCLUDING ALL AIR TRAFFIC CONTROL SPECIALIZATIONS, THOSE IN THE DEPARTMENT OF DEFENSE AS WELL AS THOSE IN THE DEPARTMENT OF TRANSPORTATION, UNDER SOME OR ALL OF THE PROVISIONS OF THE ORIGINAL ACT. ALTHOUGH WE AMENDED THE LAW IN 1980 TO INCLUDE THE EMPLOYEES OF THE DEFENSE DEPARTMENT, WE FAILED TO COMPLETELY CORRECT THE PROBLEM.

PERSONNEL IN ALL THREE CATEGORIES ARE FREQUENTLY CALLED "CONTROLLERS" BY THE FEDERAL AVIATION ADMINISTRATION (FAA) AND OTHERS AS WELL AND ONE MIGHT BELIEVE THAT THEY ACTUALLY CONTROLLED AIRCRAFT. HOWEVER, FAA REGULATIONS CLEARLY STATE THAT: "THE PILOT IN COMMAND OF AN AIRCRAFT IS DIRECTLY RESPONSIBLE FOR, AND, IS THE FINAL AUTHORITY AS TO THE OPERATION OF THE AIRCRAFT". THE COURTS HAVE TAKEN A SIMILAR VIEW AND IN SAWYER v. U.S. D.C. N.Y. 1969 STATED:

"RESPONSIBILITY FOR SAFETY OF AN AIRPLANE AND ITS PASSENGERS RESTS WITH THE CAPTAIN-PILOT BY GOVERNMENT REGULATIONS HAVING THE FORCE AND EFFECT OF LAW."

ALSO FROM THE SAME CASE:

"THE FACT THAT THE PILOT MAY BE FLYING WITH AN AIR TRAFFIC CLEARANCE DOES NOT RELIEVE HIM OF THE RESPONSIBILITY FOR OPERATIONAL CONTROL OF THE AIRCRAFT."

ACCORDINGLY, CONTROL CAN ONLY BE EXERCISED IN THE COCKPIT AND BY THE PILOT IN COMMAND.

IN LOOKING OVER THE FATALITY STATISTICS PUBLISHED BY THE NATIONAL TRANSPORTATION SAFETY BOARD (NTSB) ON JANUARY 10, 1985, I WAS SHOCKED TO LEARN THAT OVER THE PAST TEN YEARS GENERAL AVIATION, INCLUDING AIR TAXIS AND COMMUTERS, EXCEEDED 13,000 FATALITIES, WHICH IS MORE THAN 13 TIMES THE DEATHS AMONG THE SCHEDULED AIR CARRIERS.

GENERAL AVIATION PILOTS ARE THE PRIMARY USERS OF THAT BRANCH OF THE AIR TRAFFIC CONTROL SYSTEM KNOWN AS THE FLIGHT SERVICE STATION. I'M SURE YOU CAN NOW SEE WHY THIS CAN BE SUCH A TRAUMATIC AND STRESSFUL ENVIRONMENT IN WHICH TO WORK. FURTHER, ALMOST HALF OF ALL EMERGENCY FLIGHT ASSISTS, ACCORDING TO RECENT HOUSE TRANSPORTATION APPROPRIATIONS HEARINGS, WERE MADE BY STATION SPECIALISTS, WHILE IT HAS LESS THAN 20 PERCENT OF THE PERSONNEL IN THE ENTIRE SYSTEM. I AM CONCERNED THAT ONE-FIFTH OF THE PERSONNEL HANDLE ALMOST FIFTY PERCENT OF THE EMERGENCY SITUATIONS IN THE AIR AND CAN DO SO UNTIL THEY REACH THEIR LATE FIFTIES OR EARLY SIXTIES.

GENERAL AVIATION IS THE MOST HAZARDOUS SEGMENT OF AVIATION, AND YET, THE FAA DENIES EARLY RETIREMENT BENEFITS TO EMPLOYEES INVOLVED WITH GENERAL AVIATION AND PROVIDES THESE BENEFITS TO THOSE EMPLOYEES INVOLVED WITH SCHEDULED CARRIERS, THE SAFEST SEGMENT OF AVIATION.

THE SECRETARY OF TRANSPORTATION RECOGNIZED THE HAZARDS OF THE WORKPLACE IN THE FLIGHT SERVICE SYSTEM IN THE IMPLEMENTATION OF 5 USC 5542 BY INCLUDING STATION EMPLOYEES FOR ELIGIBILITY FOR SPECIAL OVERTIME PAY AND STATED:

"(A) THE DUTIES OF WHICH ARE CRITICAL TO THE IMMEDIATE DAILY OPERATION OF THE AIR TRAFFIC CONTROL SYSTEM, DIRECTLY AFFECT AVIATION SAFETY, AND INVOLVE PHYSICAL OR MENTAL STRAIN OR HARDSHIP;".

IN MY VIEW, THIS ACTION ALONE, IS SUFFICIENT REASON FOR THE ENACTMENT OF H.R. 989.

GOING BACK TO THE 1980 LEGISLATION, ALREADY MENTIONED, IT IS INTERESTING TO FOLLOW THE SERIES OF EVENTS AFTER THIS COMMITTEE FAVORABLY REPORTED THE BILL. EVEN THOUGH THE APPROPRIATIONS COMMITTEE REPORTED THE BILL ADVERSELY IT RECOGNIZED THE POTENTIAL FOR DETRIMENTAL EFFECT ON EMPLOYEE MORAL. IN THEIR REPORT THEY RECOMMENDED THAT A STUDY BE DONE BEFORE THEY MADE A DECISION AS TO INCLUDING "FLIGHT SERVICE SPECIALISTS" IN THE PROGRAM. THE COMMITTEE FOLLOWED THROUGH ON THIS RECOMMENDATION AND DIRECTED THE FAA TO CONDUCT A STUDY IN COOPERATION WITH AN INDEPENDENT ORGANIZATION, AND TO REPORT IT TO THE COMMITTEE NO LATER THAN SEPTEMBER 30, 1981.

ON NOVEMBER 30, 1981 THE FAA FORWARDED A REPORT PREPARED BY A PRIVATE CONTRACTOR AND THE ADMINISTRATOR OF THE FAA STATED, IN HIS COVER LETTER

IN PART:

"BASED ON THE FINDINGS AND CONCLUSIONS PRESENTED BY JWK INTERNATIONAL, WE DO NOT FIND ANY EVIDENCE WHICH WARRANTS THE EXTENSION OF EARLY RETIREMENT BENEFITS TO FLIGHT SERVICE STATION SPECIALISTS."

IT WOULD SEEM TO ME, THAT THE ONE OF THE BEST PIECES OF EVIDENCE WAS LOCATED AT 5 USC 5542, WHICH I HAVE ALREADY QUOTED.

AT THAT TIME, I EVALUATED THE FAA'S EFFORT AS A HALF-HEARTED ATTEMPT TO APPEASE THE CONGRESS WITH THE HOPE THAT THE PROBLEM WOULD DISAPPEAR. THE ONLY THING WHICH HAS DISAPPEARED IS THE \$75,000 IN TAXPAYER MONEY WHICH THE FAA USED TO PAY THE PRIVATE CONTRACTOR.

THIS REPORT WAS REVIEWED AND CRITIQUED, AT THE REQUEST OF THE NATIONAL ASSOCIATION OF AIR TRAFFIC SPECIALISTS (NAATS), BY THE FIRM OF RITTENBERG, FRIEDMAN, KILGALLON AND ASSOCIATES, WHICH IS A WASHINGTON-BASED ECONOMIC RESEARCH AND CONSULTING FIRM SPECIALIZING IN LABOR ECONOMICS AND EMPLOYMENT ISSUES SINCE 1969. UPON URGING BY THE APPROPRIATIONS COMMITTEE, IN CONFERENCE, ON THE 1983 TRANSPORTATION APPROPRIATIONS BILL, THE FAA FORWARDED BOTH REPORTS TO THE GENERAL ACCOUNTING OFFICE (GAO) FOR EVALUATION, ANALYSIS AND A REPORT.

IN MARCH 1984, THE GAO REPORTED ITS FINDINGS AND CONCLUDED:

"OUR REVIEW SHOWED THE JWK'S STUDY RESULTS ARE INCONCLUSIVE. THE RESULTS DO NOT SUPPORT FAA'S CONCLUSIONS THAT FSS SPECIALISTS SHOULD NOT BE AFFORDED EARLY RETIREMENT...."

AS I HAVE ALREADY SET FORTH IN THIS STATEMENT, NO FAA GROUND PERSONNEL CONTROL AIRCRAFT, BUT ALL CONTROL PERSONNEL MAKE RECOMMENDATIONS TO PILOTS TO INSURE A SAFE FLIGHT. STATION PERSONNEL MAKE RECOMMENDATIONS ON A CONTINUOUS BASIS TO SEPARATE AIRCRAFT FROM DANGEROUS WEATHER CELLS. IN HIS HEARING ON THE "IMPACT OF WEATHER ON AVIATION SAFETY", OUR COLLEAGUE, THE CHAIRMAN OF THE PUBLIC WORKS SUBCOMMITTEE ON INVESTIGATIONS AND OVERSIGHT STATED:

"IT BECAME PRETTY CLEAR THAT THE MESSAGE BEING GIVEN BY ALL THE WITNESSES IS THAT SUSPECT WEATHER CELLS SHOULD BE AVOIDED JUST AS ONE AIRCRAFT SHOULD AVOID THE PATH OF ANOTHER AIRCRAFT..."

THE HEAVY RESPONSIBILITY FOR HUMAN LIFE THAT IS CITED AS A STRESS PRODUCING FACTOR FOR CONTROLLERS IN TOWERS AND CENTERS IS SHARED BY THE SPECIALISTS IN STATIONS AND IT IS OFTEN A MORE MEANINGFUL FACTOR BECAUSE THESE EMPLOYEES DEAL FACE TO FACE WITH THE GENERAL AVIATION PILOTS AND THEIR PASSENGERS.

DURING THE COURSE OF AN 8 HOUR SHIFT, A STATION SPECIALIST MAKES A SERIES OF JUDGEMENTS AND RENDERS ADVICE TO PILOTS THAT IS VITAL TO THEIR SAFETY.

HE EXPERIENCES JUST AS MUCH STRESS AND JUST AS MUCH WORRY AS ANY OTHER SPECIALIST OR "CONTROLLER". THIS STRESS OFTEN BECOMES ACUTE WHEN WEATHER CONDITIONS ARE INCLEMENT, WHEN AN INEXPERIENCED PILOT IS AT THE CONTROL OF A PLANE, WHEN AN AIRCRAFT MALFUNCTIONS OR WHEN AN EMERGENCY SEARCH IS UNDERWAY.

SPECIALISTS EMPLOYED AT ALL LOCATIONS WITHIN THE FAA SYSTEM OR THE MILITARY SYSTEM, ARE AWARE THAT THEIR LEVEL OF PERFORMANCE MUST CONSTANTLY BE OF THE HIGHEST CALIBER. THEY KNOW THE COST OF INDECISION AND ERROR IS MEASURED IN TERMS OF HUMAN LIFE. BOTH THE DEPARTMENT OF TRANSPORTATION AS WELL AS THE OFFICE OF PERSONNEL MANAGEMENT HAVE ATTEMPTED, THROUGH SEVERAL ADMINISTRATIONS, TO MINIMIZE THE IMPORTANCE OF THE SERVICES PROVIDED BY FLIGHT SERVICE PERSONNEL.

THIS CONCERNS ME BECAUSE TO ANY ONE WHO THINKS IN PRACTICAL TERMS, THE STATION SPECIALIST IS AS VITAL TO AVIATION SAFETY AS ANY CONTROL OR TOWER SPECIALIST. IN THE PAST, SPOKESMEN FOR THE EXECUTIVE BRANCH HAVE TRIED TO DIVERT THE FOCUS ON THESE MATTERS AWAY FROM THE INTERESTS OF AIR SAFETY, BY PERSISTENTLY OPPOSING MEASURES THAT WOULD EXPAND THE COVERAGE OF ALL OR EVEN PART OF PUBLIC LAW 92-297 TO FSS SPECIALISTS. THESE SPOKESMEN USUALLY TALK IN TERMS OF THE IMMEDIATE BENEFITS WHICH MIGHT BE GRANTED, AS THOUGH THESE SPECIALISTS ARE AN UNDESERVING SECOND-CLASS CITIZEN.

IF THE FAA ARGUES THAT A YOUTHFUL WORK FORCE IS REQUIRED IN CENTERS AND TOWERS, I WILL QUICKLY POINT OUT THAT THEIR ACTIONS OF THE PAST COMPLETELY BELIE SUCH ARGUMENTS, SINCE THEY ARE NOW EMPLOYING AIR TRAFFIC CONTROL SPECIALISTS WHO, YEARS AGO, RETIRED UNDER THE PROVISIONS OF PUBLIC LAW 92-297. THESE PERSONNEL WERE DESCRIBED, BY THE FAA, AS "HIGH PERFORMERS" BEFORE THE HOUSE TRANSPORTATION APPROPRIATIONS COMMITTEE.

IF FAIRNESS AND EQUITY IN THE WORK FORCE IS TO BE ACHIEVED AND IF AVIATION SAFETY IS TO BE ENHANCED, WE HAVE NO ALTERNATIVE BUT TO INCLUDE THE AIR TRAFFIC CONTROL SPECIALISTS IN STATIONS WITHIN THE GROUP ENTITLED TO EARLY RETIREMENT AND REMOVE THE STIGMA OF SEPARATENESS FROM THESE LOYAL AND DEDICATED FEDERAL EMPLOYEES.

AGAIN, I WANT TO COMMEND YOU FOR YOUR INTEREST IN THIS ISSUE AND FOR HOLDING THESE HEARINGS.

THANK YOU VERY MUCH.